

# BOARD OF ZONING APPEALS

## MINUTES

6:30 PM

February 18, 2015

City Council Chambers

**MEMBERS PRESENT:** Leanne Cardoso, Linda Herbst, George Papandreas, and Jim Shaffer

**MEMBERS ABSENT:** Bill Burton

**STAFF:** Christopher Fletcher, AICP

**I. CALL TO ORDER AND ROLL CALL:** Cardoso called the meeting to order at 6:30 PM and read the standard explanation of the how the Board conducts business and rules for public comments.

**II. MATTERS OF BUSINESS:**

**A. Minutes for the January 21, 2015 hearing:** Papandreas moved to approve as presented; seconded by Herbst. Motion carried unanimously.

**III. UNFINISHED BUSINESS:** None

**IV. NEW BUSINESS:**

**A. CU15-01, V15-03 thru V15-08 / Victory Holding, LLC / 505 Beechurst Avenue:** Request by Joe Panico, on behalf of Victory Holding, LLC; Tax Map 19, Parcel 45; B-2, General Business District.

Fletcher presented the Staff Report.

Cardoso recognized the petitioner Joe Panico of 505 Beechurst Avenue who stated the property is unique and doesn't understand why the property is labeled as an "off-site parking facility" as the property is across from a 15 foot City alley. The property would meet the maximum lot coverage and rear setback requirements if the parking lot was included in his Parcel and not separated by a right-of-way. To meet the lot coverage requirements, two stories would have to be added to the structure which would create the need for additional variances with parking. The same siding will be used to match the property next door.

Panico stated he disagrees with the condition listed related to lighting as the parking lot is existing and there is ample light in the area from the power plant. The existing building has partial brick and vinyl siding. The vinyl siding will be removed and will be replaced with hardy plank and nichiha siding in the front of the building. There are two existing windows that meet the fire and building code and he doesn't feel it's necessary to replace these windows as there are many buildings along the Beechurst corridor that have fenestration issues.

Shaffer asked Panico what the Board had previously approved for prior fenestration issues. Panico explained he had two residential units on the main floor and replaced them with commercial windows.

Shaffer asked if Panico owned the existing parking lot. Panico confirmed and stated he owns the lot but it is under a different business organization.

Fletcher explained that under the conditional use, Mr. Panico would need to record a covenant and easement that runs with this property to link the two LLC's. Fletcher stated there is a right-of-way separating the two (2) parcels and therefore cannot be argued as contiguous parcels.

Panico believed if there is no property in-between a public right-of-way then the property would be contiguous. The right-of-way is part of the project and has not been annulled as it would be difficult with a steam-line going down the middle.

Shaffer asked if there is any type of lighting that Panico would agree to install in the existing parking lot.

Panico asked Fletcher what the requirements are for lighting per the City code. Fletcher stated the code does not have a maximum or minimum footcandle standard but does not permit lighting to spill out onto other properties or public rights-of-way.

Panico stated he is going to install additional lighting on the building across the right-of-way towards the parking lot but does not want to run powers lines to the parking lot in order to provide lighting. Panico noted that the power plant is lit up at all hours and he would be willing to install spot lights on the building to meet the code.

Panico referred to the Staff Report and stated that the sign required to delineate persons per unit could present a problem as it wouldn't add up with 11 units and 21 spaces in the building. Fletcher explained that those rules were stated in the Planning and Zoning Code.

There being no further comments or questions by the Board, Cardoso asked if anyone was present to speak in favor of or in opposition to the request.

Cardoso recognized William Brewer of 265 High Street, on behalf of Morgantown Energy Associates (MEA), who stated there are concerns with excavation and the steam-line that runs behind the subject building. MEA received plans for the prior project but was not notified of the excavation for the footer of the building. The wall on the present building extends to 18 inches from the steam-line right-of-way. MEA would like to be notified prior to any future excavating or grading as the steam-line is not buried as deep in the subject alley as they would be on a street. There are also concerns of installing stormwater retention lines on the proposed building as leakage could cause condensation that would turn to steam and could damage the lines and cause significant penalties for MEA under Morgantown Utility Board's recent stormwater management ordinance.

Shaffer asked if Brewer could show where the steam-line is located on the plans presented to the Board. Brewer stated he has not seen the plans, but believes the steam-line is running down the center of the alleyway. Shaffer asked for the depth of the lines. Brewer did not know the actual depth but stated the lines are not placed as deep as they would be on a street.

There being no further public comments, Cardoso invited Panico to the podium for rebuttal.

Panico stated that there is no excavation on the proposed project outside of his property, he is not encroaching on any right-of-way, and any stormwater retention will be done on his property. He has contacted MUB and they have no inclination of any requirements under state guidelines

too require a barrier be provided. He has more concerns with the steam coming on his property as they are a high pressured line. But what he does on his property is his right and he has no intentions of providing plans to MEA as they can request plans from the City and it's not their business in how he builds his building.

Shaffer asked if the steam-lines would be a problem if lighting had to be installed underneath the pavement. Panico stated he did not know the depth of the lines as MEA has never provided him with plans. One of the reasons he has never tried to annul the alley is because he doesn't want to have any affiliation with the steam-line.

Cardoso declared the public hearing closed and asked for Staff's recommendations.

Prior to reading the Staff recommendations, Fletcher responded to the petitioner's concerns with the proposed conditions by stating there is ambient light in the area from the power plant and Staff would be fine with striking the condition related to lighting. However, Staff would still like to see that all requisite parking spaces are designed and improved, paved and striped according to the Planning and Zoning Code. The recommendation made for the windows was Staff's attempt to reduce the extent of requisite variance relief.

Fletcher read the Staff recommendations for CU15-01.

Shaffer made a motion to find in the affirmative for the all the Findings of Facts for CU15-01 as revised; seconded by Papandreas. Motion carried unanimously.

*NOTE: The following Finding of Fact was included in the motion.*

Finding of Fact No. 1 – Congestion in the streets is not increased, in that:

Alternate modes of transportation are readily available within the Beechurst Avenue corridor where increased mixed use residential density is a desired development pattern in the Sunnyside-Up Neighborhood Revitalization Plan and the city's Comprehensive Plan.

Finding of Fact No. 2 – Safety from fire, panic, and other danger is not jeopardized, in that:

The proposed off-site parking facility is an existing surface parking lot.

Finding of Fact No. 3 – Provision of adequate light and air is not disturbed, in that:

The proposed off-site parking lot is an existing surface parking lot. The proposed addition to the existing residential building for which parking is requested, is one story and should not adversely impact existing light distribution or air flow patterns.

Finding of Fact No. 4 – Overcrowding of land does not result, in that:

The Planning and Zoning provides the opportunity of dedicating off-site parking to mitigate overcrowding of development patterns. No new parking structure, facility, or use is proposed as the location of the off-site parking facility is an existing parking lot.

Finding of Fact No. 5 – Undue congestion of population is not created, in that:

The Planning and Zoning code provides the opportunity of dedicating off-site parking to mitigate population congestion. No new parking structure or use is proposed as the location of off-site facility is an existing surface parking lot. Additionally, increased mixed-use residential density along Beechurst Corridor is a desired development pattern in the Sunnyside-Up Neighborhood Revitalization Plan and

city's Comprehensive Plan.

Finding of Fact No. 6 – Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

The proposed addition to the existing building, for which off-site parking approval is requested, should not increase demand for said public infrastructure or services.

Finding of Fact No. 7 – Value of buildings will be conserved, in that:

The proposed off-site parking lot appears, in this case, necessary to continue private sector efforts of increased residential density in Sunnyside area. New construction should further existing market value and interest in continued to development.

Finding of Fact No. 8 – The most appropriate use of land is encouraged, in that:

The site and off-site parking area both are utilizing existing structure and surface parking lot.

Papandreas moved to approve CU15-01 as revised with Staff recommended conditions; seconded by Shaffer and carried unanimously.

*NOTE: The following conditions were included in the motion.*

1. That the off-site parking facilities shall be encumbered by an easement or similar agreement duly executed and acknowledged, which specifies that the land upon which the off-site parking facility is located is encumbered by the parking use. Said instrument shall specify and bind the time period to the anticipated life of the building or use to which the parking facilities are accessory. Said instrument shall be filed with the Planning Division and placed on public record in the Office of the Clerk of the County Commission of Monongalia County, West Virginia.
2. That the petitioner shall maintain current and valid parking of no less than six (6) on-site spaces and no less than five (5) off-site spaces on Parcel 47.02 of Tax Map 19. Each off-site parking space shall have a sign noting the residential unit for which the space is reserved. Signs shall be 12 inches wide by 18 inches tall and shall be mounted between three feet and five feet above the finished surface of the parking stall. The text on the sign shall state, "This space is reserved for the resident(s) of [address to be determined later by City Engineer] only per City Code 1365.07(D)."
3. With the exception of related landscaping and screening requirements, all requisite on-site and off-site parking spaces shall be designed, improved, paved, and striped in accordance with Article 1365.09 "Parking Development Standards."

Fletcher read the Staff recommendations V15-03.

Shaffer made a motion to find in the affirmative for the all the Findings of Facts for V15-03 as revised; seconded by Papandreas. Motion carried unanimously.

*NOTE: The following Finding of Fact was included in the motion.*

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

Incorporating cementitious fiberboard and brick/stone veneer in the proposed project will not be harmful to the public welfare or other improvements in the vicinity. The more durable products will last longer and need less maintenance than natural materials. The proposed building will improve the vicinity and hopefully spark future redevelopment in a somewhat blighted area on a primary street.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

It appears that the predominant architectural designs of existing smaller buildings along Beechurst Avenue incorporate siding materials. The use of cementitious siding, rather than vinyl or wood siding, and stone veneer is intended to utilize more durable cladding and cost effective cladding materials.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

Variance relief has been granted by the Board of Zoning Appeals within the Sunnyside Overlay Districts to permit the use of cementitious siding and brick and stone veneers.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The proposed building materials appear to be generally within the fitting character of the Beechurst Avenue corridor. Market values of adjacent properties should increase with the proposed development and perhaps spark additional development in the area. The nature of the variance relief requested cannot contribute to or mitigate existing traffic congestion.

Shaffer moved to approve V15-03 as revised with conditions; seconded by Papandreas and carried unanimously.

*NOTE: The following conditions were included in the motion.*

1. That vinyl siding may not be used for any portion of the exterior façades.
2. That exterior stairs, steps, landings, walkways, railings, and support members may not be comprised of exposed wood or treated lumber.
3. That cementitious siding must be comprised of simulated wood grain profile.
4. That the stone or masonry veneer design of the second level of the front building facade must be delivered as illustrated on the building elevations dated 30 SEP 2014.

Fletcher read the Staff recommendations for V15-04.

Papandreas made a motion to find in the affirmative for the all the Findings of Facts for V15-04 as revised; seconded by Shaffer. Motion carried unanimously.

*NOTE: The following Finding of Fact was included in the motion.*

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The existing setback encroachments of the existing building do not appear to adversely impact public interests or improvements within the immediate area nor is a negative impact anticipated by the proposed second story addition.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The proposed second story utilizes the footprint of an existing building that encroaches into minimum side and rear setback requirements. The proposed residential floor plan of the second story appears to limit the design and location of stairs and walkways given the narrowness of the existing footprint and

property.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

It appears that razing and removing the existing building would be required to meet setback requirements.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

There appears to be a number of buildings within the 500 Block of Beechurst Avenue that encroach into minimum side setback standards including zero-lot line buildings. The redevelopment should enhance the value of the area and accordingly contribute to the market value of neighboring structures. The nature of the variance relief requested cannot contribute to or mitigate existing traffic congestion.

Shaffer moved to approve V15-04 as revised without conditions; seconded by Papandreas and carried unanimously.

*NOTE: The following conditions were included in the motion.*

1. To increase vertically the extent of the nonconforming west side setback so that a one additional story can be constructed atop the existing footprint of the subject building.
2. To permit an 18.5-foot encroachment into the minimum rear setback standard.
3. To increase vertically the extent of the nonconforming east (Fifth Street) side setback so that a one additional story can be constructed atop the existing footprint of the subject building.

Fletcher read the Staff recommendations for V15-05.

Papandreas made a motion to find in the affirmative for the all the Findings of Facts for V15-05 as revised; seconded by Shaffer. Motion carried unanimously.

*NOTE: The following Finding of Fact was included in the motion.*

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The nature of the variance should not influence or impact public interests or facilities within the immediate area.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The existing structure is aged and will take extra effort structurally to add the 3<sup>rd</sup> level to meet code. Also keeping it a 2 level building will blend in with surrounding properties.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

Upper level residential is recommended for structures in this zoning area. And converting to 3 stories will push ~~my~~ parking limits along with engineering expense for 3 floors on existing structure.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and

substantial justice done, because:

The proposed addition appears to increase density and scale along the primary street toward desired objectives.

Papandreas moved to approve V15-05 as revised without conditions; seconded by Shaffer and carried unanimously.

Fletcher read the Staff recommendations for V15-06.

Papandreas made a motion to find in the affirmative for the all the Findings of Facts for V15-06 as revised; seconded by Herbst. Motion carried unanimously.

*NOTE: The following Finding of Fact was included in the motion.*

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The proposed development does not appear to increase the extent of impervious service of the site. Additional stormwater management facilities will be required under stormwater management regulations administered by the Morgantown Utility Board. The addition of the stairs and balcony walkways ensure compliance with life safety standards of the building and fire codes.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The lot coverage of the existing building already exceeds the maximum standard.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

The increase in lot coverage appears to accommodate safe ingress and egress of the new dwelling units in the proposed additional story.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The footprint of the existing building will be used to develop one story only given structural capacities of the existing building according to the petitioner. The rear stairs and balcony walkways are to provide safe ingress and egress to the six (6) new apartments.

Papandreas moved to approve V15-06 as revised without conditions; seconded by Herbst and carried unanimously.

Fletcher read the Staff recommendations for V15-07.

Papandreas made a motion to find in the affirmative for the all the Findings of Facts for V15-07 as revised; seconded by Shaffer. Motion carried unanimously.

*NOTE: The following Finding of Fact was included in the motion.*

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The nature of variance relief requested should not affect public welfare or harm public improvement or private property within the immediate area.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The building is on a corner property surrounded on three (3) sides by public right-of-way. Observing the minimum fenestration ratios and window design standards would require significant glazing for residential units, which reduces privacy, energy efficiency, and livability given ambient noise from the Beechurst Avenue corridor.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

There are existing commercial storefront ground floor window openings in the existing structure that will be replaced with 100% glazing, as a result of the Board's related condition, but will still be less than minimum ground floor fenestration ratio standards. The proposed residential floor plans of the second story appear to limit the amount of windows that can be developed on the front, side and rear facades.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The proposed fenestration ratio and requested relief from recessing windows appears to be relatively consistent with existing development patterns along the Beechurst Avenue corridor.

Papandreas moved to approve V15-07 as revised with conditions; seconded by Shaffer and carried unanimously.

*NOTE: The following conditions were included in the motion.*

1. That the vinyl siding that surrounds the two (2) existing ground floor windows in the front façade facing Beechurst Avenue must be removed and replaced with brick that compliments the brick cladding of the front façade.
2. That window shutters for the proposed story addition on the front façade facing Beechurst Avenue must be developed as illustrated on the drawings dated 30 SEP 2014.
3. That window shutters for the six (6) windows in the proposed story addition on the side façade facing Fifth Street must be provided to compliment the window shutters address in Condition 2 above.

Fletcher read the Staff recommendations for V15-08.

Shaffer made a motion to find in the affirmative for the all the Findings of Facts for V15-08 as revised; seconded by Papandreas. Motion carried unanimously.

*NOTE: The following Finding of Fact was included in the motion.*

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

Unlike a larger scaled development that results in razing and removing more than one nonconforming building along Beechurst Avenue, the proposed second story should not adversely impact any right-of-way widening improvements that the State may undertake in the future.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The proposed development provides for the addition of one (story) on the footprint of an existing



building that encroaches into the minimum build-to-line standard along Beechurst Avenue.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

It's nearly impossible to meet the minimum build-to-line standard without demolition of the existing structure.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The proposed second story utilizes the footprint of the existing building and maintains a setback trend that is consistent with the majority of buildings on the west side of the 500 Block of Beechurst Avenue. Increased residential density along the Beechurst Avenue corridor is a desired development pattern in the Sunnyside Up Neighborhood Revitalization Plan and the City's Comprehensive Plan. The nature of the variance relief requested cannot contribute to or mitigate existing traffic congestion.

Shaffer moved to approve V15-08 as revised without conditions; seconded by Papandreas and carried unanimously.

Cardoso reminded Mr. Panico that the Board's decision can be appealed to Circuit Court within thirty days of receiving written notification from the Planning Division and that any work related to the Board's decisions during this period would be at the sole financial risk of the petitioner.

**B. CU15-02 & V15-10 / Stancorp Properties, LLC / Evans Street:** Request by David Robertson, on behalf of Stancorp Properties; Tax Map 15, Parcels 86, 87, 88, 89, 90, 92.1 and 93; O-I, Office and Industrial District.

Fletcher presented the Staff Report.

The Board decided to combine the public hearings for Cases CU15-02 and V15-10.

Cardoso recognized David Robertson of Stancorp Properties, who concurred with the Staff Report.

There being no comments or questions by the Board, Cardoso asked if anyone was present to speak in favor of or in opposition to the request. There being none, Cardoso declared the public hearing closed and asked for Staff's recommendations.

Fletcher read the Staff recommendations.

Papandreas made a motion to find in the affirmative for the all the Findings of Facts for CU15-02 as revised by Staff; seconded by Shaffer. Motion carried unanimously.

*NOTE: The following Finding of Fact was included in the motion.*

Finding of Fact No. 1 – Congestion in the streets is not increased, in that:

Significant improvements to Evans Street will be required and completed to support the proposed development including roadway widening and the softening of roadway geometry and grades. The subject site is less than 300 feet of walking distance from the University Avenue corridor, which is well served by public transit and is within walking and biking distance of the Evansdale and Downtown campuses. Convenient linkages to alternate modes of transport reduces auto dependency by the proposed development's residents and serves to mitigate increased traffic congestion created by

commuting traffic from higher density residential development outside the City of Morgantown.

Finding of Fact No. 2 – Safety from fire, panic, and other danger is not jeopardized, in that:

Requisite roadway improvements will serve to improve access to the subject site and the immediate area by emergency responders. Requisite waterline and fire hydrant improvements will improve utility service capacity within the immediate area. The building will be required to meet all applicable life and safety standards within the Fire and Building Codes.

Finding of Fact No. 3 – Provision of adequate light and air is not disturbed, in that:

The proposed development appears to follow the residential density, massing, and scale of other multi-family developments within the immediate area.

Finding of Fact No. 4 – Overcrowding of land does not result, in that:

The proposed development conforms to maximum building height standards and is approximately 55% of the by-right maximum lot coverage. A bufferyard on the west side of the proposed structure can and should be planned and improved as required.

Finding of Fact No. 5 – Undue congestion of population is not created, in that:

The number of planned parking spaces exceeds minimum requirements. Requisite roadway improvements will serve to improve access to the subject site and the immediate area by emergency responders.

Finding of Fact No. 6 – Granting this request will not create inadequate provision of transportation, water, sewage, schools, parks, or other public requirements, in that:

Significant improvements to Evans Street will be required and completed to support the proposed development including roadway widening and the softening of roadway geometry and grades. Capacity levels for water, sanitary sewer, and stormwater facilities are either adequate or will be upgraded as determined by the Morgantown Utility Board to serve the needs of the proposed development. Given overwhelming majority of university-aged residents within the immediate area, the proposed development is not anticipated to contribute to overcrowding of public schools.

Finding of Fact No. 7 – Value of buildings will be conserved, in that:

The proposed development will remove three (3) single-family houses that are not permitted in the OI District, which is in concurrence with the Comprehensive Plan's principal of, "Infill development and redevelopment of underutilized and/or deteriorating sites takes priority over development in green field locations at the city's edge." The development site is nearly surrounded by multi-family developments of varying scales. The development of multi-family housing on the subject site should serve to increase the market value of neighboring buildings and properties as is customary to new construction.

Finding of Fact No. 8 – The most appropriate use of land is encouraged, in that:

The development site is within a neighborhood that has experienced a significant transition from single-family dwellings to multi-family dwellings primarily for college-aged student housing over the past several decades and is linked to the multi-modal University Avenue corridor connecting the Evansdale and Downtown campuses. The subject site is nearly surrounded by multi-family developments of varying scales and ages. The proposed development appears to follow the residential density, massing, and scale of other multi-family developments within the immediate area.

Papandreas moved to approve CU15-02 as revised with conditions; seconded by Shaffer and carried unanimously.

*NOTE: The following conditions were included in the motion.*

1. That Case No. S15-02-III and Case No. MNS15-02 be approved by the Planning Commission and all related conditions therein observed and/or addressed accordingly.

2. That widening and geometry improvements to Evans Street must be completed to the satisfaction of the City Engineer including securing related performance bond.
3. That the final Landscape Plan and Erosion Control Plan must be submitted with the building permit application for review and approval. Variance approval must be obtained should said plans not conform to the related performance standards set forth in the City's Planning and Zoning Code.
4. That a Sign Plan must be submitted and reviewed under the standard building permit application process. Variance approval must be obtained should the Sign Plan not conform to related performance standards set forth in the City's Planning and Zoning Code.
5. That the development must meet all applicable federal Fair Housing and Americans with Disabilities Act standards to the satisfaction of the City's Chief Building Code Official.

Papandreas referred to self-imposed hardships and questioned if the applicant is requesting variances due to the size of the project.

Fletcher referred to the Planning and Zoning Code and explained that residential construction in the O-I District must follow the height and performance standards of the R-3 district but the Code does not address the setback standards, which eliminates 60 feet of developable site width give the minimum thirty-foot side setback requirements. Fletcher referred to Metro Towers and stated that variance relief was granted for similar setback requirements for that project.

Papandreas made a motion to find in the affirmative for the all the Findings of Facts for V15-10 as revised; seconded by Shaffer. Motion carried unanimously.

*NOTE: The following Finding of Fact was included in the motion.*

Finding of Fact No. 1 – The variance will not adversely affect the public health, safety or welfare, or the rights of adjacent property owners or residents, because:

The proposed development appears to follow the residential density, massing, scale, and setbacks of other multi-family developments within the immediate area, which do not appear to adversely impact public welfare or harm public improvements or private property within the immediate area. Additionally, the Board's condition to plan and improve the requisite ten (10) foot wide bufferyard on the west side of the proposed structure ensures desired transitional yards between single- and two-family uses and multi-family developments.

Finding of Fact No. 2 – The variance arises from special conditions or attributes which pertain to the property for which a variance is sought and which were not created by the person seeking the variance, because:

The development site consists of several parcels that have been assembled creating an unusual outer boundary configuration that is peculiar to the site. The depth of the development site varies between 110 feet to 210 feet. Additionally, the site has an elevation change of approximately 56 feet.

Finding of Fact No. 3 – The variance will eliminate an unnecessary hardship and permit a reasonable use of the land, because:

An encroachment into the front setback permits safe and efficient vehicular and emergency access to the rear of the proposed building. Although Article 1343.07(F) provides that residential construction in the OI District must following the building height and performance standards of the R-3 District, setback requirements remain OI District standards, which reduces the buildable width of the site by 60 feet (30-foot setbacks on each side). The proposed development observes the side setback standard on the east side, but encroaches into the west side setback standard.

Finding of Fact No. 4 – The variance will allow the intent of the zoning ordinance to be observed and substantial justice done, because:

The proposed structure appears to best utilize the land for a permitted use within the zoning ordinance and the Comprehensive Plan. This project, in its entirety, should be of benefit to the surrounding neighborhood with the new water lines, improvement of the intersection from University Avenue onto Evans Street and widening of Evans Street to allow for better traffic flow and access of fire equipment needed for surrounding properties.

Papandreas moved to approve V15-10 as recommended without conditions; seconded by Shaffer and carried unanimously.

Cardoso reminded Mr. Robertson that the Board's decision can be appealed to Circuit Court within thirty days of receiving written notification from the Planning Division and that any work related to the Board's decisions during this period would be at the sole financial risk of the petitioner.

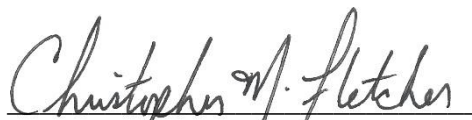
**V. ANNOUNCEMENTS:** Fletcher noted the 2014 Planning Commission Annual Report has been distributed to Board members

**VI. ADJOURNMENT:** 7:55 PM

MINUTES APPROVED:

March 18, 2015

BOARD SECRETARY:

  
Christopher M. Fletcher, AICP